

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of San Diego Gas & Electric Company (U 902-E) for an Order Implementing Assembly Bill 265.

Application 00-10-045  
(Filed October 24, 2000)

Application of San Diego Gas & Electric Company (U 902-E) for Authority to Implement an Electric Rate Surcharge to Manage the Balance in the Energy Rate Ceiling Revenue Shortfall Account.

Application 01-01-044  
(Filed January 24, 2001)

**ASSIGNED COMMISSIONER'S RULING VACATING  
SUSPENSION OF PROCEDURAL SCHEDULE, UPDATING  
THE SCOPE, AND REVISING THE SCHEDULE**

**1. Summary**

This ruling vacates the suspension of the procedural schedule that was ordered by an earlier ruling, updates the scope, establishes a revised schedule, and sets a prehearing conference and an evidentiary hearing. It also adopts a procedure for implementing the Commission's recent decision on the California Department of Water Resources (DWR) revenue requirement as applicable to San Diego Gas & Electric Company's (SDG&E) customers. Finally, it adopts a similar procedure for implementing an anticipated decision on utility-retained generation (URG) revenue requirements. I intend to bring this proceeding to a

conclusion expeditiously while ensuring that the requirements of Assembly Bill (AB) 265 and ABX1 43, including in particular § 332.1,<sup>1</sup> are carried out in full.

## **2. Notice of Prehearing Conference and Evidentiary Hearings**

**NOTICE IS HEREBY GIVEN** that a prehearing conference is set for Wednesday, June 19, 2002 at 10:00 a.m. in the Commission Courtroom, 505 Van Ness Avenue, San Francisco, California. A schedule of required submissions to be made by parties prior to the prehearing conference is set forth in Section 6 of this ruling.

**FURTHER NOTICE IS HEREBY GIVEN** that an evidentiary hearing is set for Monday, June 24, 2002 at 9:00 a.m. in the Commission Courtroom, 505 Van Ness Avenue, San Francisco, California.

## **3. Resumption of Proceeding**

In July 2001 I suspended the schedule for this proceeding in response to SDG&E's June 27, 2001 motion for indefinite continuance of "Appendix B" issues, i.e., most of the issues that were originally raised in these consolidated applications.<sup>2</sup> The July 5 ruling noted SDG&E's assertion that a June 18, 2001 Memorandum of Understanding (MOU) between the DWR, SDG&E, and Sempra Energy would, if implemented, moot a majority of the issues in this proceeding. The suspension was ordered to avoid "premature litigation of issues

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<sup>1</sup> Section references herein are to the Public Utilities Code.

<sup>2</sup> The suspension was ordered in a written Assigned Commissioner's Ruling that was filed and served on July 5, 2001 and dated July 7, 2001. A previous ruling, issued on April 30, 2001, listed several issues, including SDG&E's proposed Revenue Shortfall Surcharge (RSS), that would be taken up in a separate phase of this proceeding. The schedule for considering the RSS and all other remaining issues was set forth in Appendix B to the April 30 ruling. SDG&E's request for a continuance of "Appendix B" issues therefore referred to those listed in the April 30 ruling.

addressed in the MOU” that might become moot. (July 5 ruling, p. 2.) In a motion for implementation of the MOU filed on July 16, 2001, SDG&E noted that “to the extent that the Commission issues the CPUC Implementing Decisions provided for in the MOU, the existing [Energy Rate Ceiling Revenue Shortfall Account] undercollection will be eliminated without the need for the revenue shortfall surcharge that SDG&E has proposed in this proceeding.”<sup>3</sup> (July 16, 2001 Motion, p. 4.)

The Commission has adopted certain of the “implementing decisions” that were described in SDG&E’s July 16, 2001 motion for implementation of the MOU and in the MOU itself. However, as reported by the Commission in a press release issued on January 25, 2002, the Commission has rejected that portion of the MOU that would have settled a pending case in the California Court of Appeals in which SDG&E seeks to overturn the Commission’s determinations in an interim decision (D.01-01-061) and D.01-05-035 with respect to the treatment of certain SDG&E power procurement contracts as regulated utility generation resources for the provision of reliable service to SDG&E’s retail customers.<sup>4</sup>

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<sup>3</sup> The Energy Rate Ceiling Revenue Shortfall Account was established to track costs and revenues associated with the rate ceiling required by § 332.1 as enacted by AB 265. In Decision (D.) 01-09-059 the Commission authorized SDG&E to rename this account as the Energy Revenue Shortfall Account (ERSA) and separately to track costs and revenues associated with the frozen rate required by § 332.1 as amended by ABX1 43.

<sup>4</sup> SDG&E filed for a petition for writ of review on June 5, 2001 in San Diego Gas and Electric Company v. Public Utilities Commission of the State of California, Case No. D.038064, California Court of Appeal, Fourth Appellate District, Division One. On February 25, 2002, SDG&E filed a related federal complaint against the Commissioners regarding the power procurement contracts in SDG&E v. Loretta Lynch, et al., Case No. 02 CV 339 BTM, U.S. District Court, Southern District of California.

In view of the Commission's rejection of the power procurement contract settlement, the following provisions of the MOU appears to be relevant:

Inasmuch as the CPUC is an independent regulatory agency which may within its discretion determine to adopt or not adopt the actions and approvals that are described herein as "CPUC Implementing Decisions," this MOU provides for certain rights on the part of Utility to terminate the implementation of this MOU in the event that the CPUC does not adopt all of the actions and approvals expressly characterized herein as "CPUC Implementing Decisions" within the time periods more fully set forth below. (MOU, p. 2.)

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Utility agrees to hold in abeyance its application for a rate surcharge (A.01-01-044) for so long as adoption or approval by the CPUC of the CPUC Implementing Decisions is pending, but in any event not longer than November 1, 2001 unless such decisions have been adopted or approved prior thereto, in which case such application shall be withdrawn. (*Id.*, p. 4.)

SDG&E has not, to date, notified the Commission of its intentions with respect to the exercise of rights it may have under the MOU that would affect the course of this proceeding. Nor has SDG&E requested resumption of this proceeding. However, in view of the Commission's obligation to process matters before it on a timely basis, as well as its obligation under § 332.1 to update the accounting of any undercollections that result from the energy rate ceiling, I have determined that the continued suspension of this proceeding is no longer justified.

Accordingly, the suspension ordered by the July ruling is vacated. SDG&E is directed to submit updated testimony that includes an updated accounting of the present AB 265 undercollection balance and its proposal for amortizing any undercollection. As discussed elsewhere in this ruling, SDG&E is directed to

include in its testimony all data regarding the costs and revenues of certain power procurement contracts.<sup>5</sup>

#### **4. Updated Scope of Proceeding**

Numerous events affecting this proceeding have occurred since SDG&E filed the above-captioned applications in October 2000 and January 2001 respectively. Among them are the interposition of the California Department of Water Resources as the principal electric power procurement agent, completion of the prudence and reasonableness proceeding required by § 332.1 (g), and the Commission's establishment of a rulemaking proceeding to address the utilities' future energy procurement role. Still, the implementation of AB 265 and the regulatory treatment of the undercollection associated with the energy rate ceiling established pursuant to that legislation remain as the main focal points of this consolidated proceeding. The matters remaining at issue in this proceeding include the following:

1. What are the current and projected amounts of the ERSA balancing account undercollection, if any, resulting from the energy rate component ceiling required by § 332.1(b) for residential, small commercial, and street lighting customers? What are the current and projected amounts of the ERSA balancing account over- or undercollection, if any, resulting from the frozen energy rate component required by § 332.1(f) for customers not subject to subdivision (b), i.e., commercial, industrial, and agricultural customers?

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<sup>5</sup> The contracts are those referenced by SDG&E in A.00-10-045 at p. 10: contracts with Illinova Power Marketing, Louisville Gas & Electric Energy Marketing, and PacifiCorp. They are the same power procurement contracts that were the subject of the Commission's order in D.01-05-035.

Accounting for the power procurement contracts referenced in A.00-10-045 and in D.01-05-035 (see Footnote 5) is an important part of the determination of these balancing account balances. To facilitate the review of those contracts, SDG&E should present a full accounting of the costs and revenues associated with them from the date each was signed. This accounting should include all original account and subaccount entries in addition to any summary account information, and, separately presented, any modifications made to the original accounts. SDG&E should include in its showing an accounting of the excess revenues/profits associated with the contracts as SDG&E had originally accounted for the excess revenues/profits, and any modifications made to the original accounting.

In D.01-09-059, the Commission noted that SDG&E had not provided a complete proposal in this proceeding for the disposition of any balancing account overcollection that might occur due to the frozen energy component established pursuant to § 332.1(f). (D.01-09-059, p. 41.) The Commission stated its intent to revisit accounting issues in the next phase of this proceeding. (*Id.*, pp. 41-42.) SDG&E should include testimony responsive to the Commission's interest in a complete proposal.

2. Is it in the public interest, and consistent with legislative intent to provide substantial protection to SDG&E's customers and their interest in just and reasonable rates and adequate service, to adjust the ceiling from the level specified in subdivision (b) of § 332.1, and to adjust the frozen rate from the levels specified in subdivision (f) of § 332.1? Resolution of this issue may require a determination of the appropriate amortization period for any balancing account undercollection associated with § 332.1, and consideration of how the amortization will be allocated among the various retail customer classes.

3. Should the rate ceiling (§ 332.1(b)) be converted to a frozen rate as originally proposed by SDG&E?
4. To the extent, if any, that the rate ceiling and frozen rate are adjusted, how should the adjustment(s) be reflected in SDG&E's retail electric rates? Should the revenue allocation and rate design principles adopted in D.01-09-059 be applied?
5. Is further Commission action appropriate with respect to establishing an accounting procedure to track and recover costs of providing energy (§ 332.1(c))? Should the Commission establish a trigger amount that will lead to Commission review of the balancing account?
6. Is any other further Commission action required to fully implement AB 265 and ABX 1 43?
7. What further actions are necessary or appropriate to implement the DWR and URG revenue requirements pursuant to recent and anticipated Commission decisions in A.00-11-038, et al. (See Section 5 of this Ruling).
8. The following issues may be addressed in this proceeding only to the extent they have not been, or are not being, resolved in other proceedings, including the "Procurement Rulemaking" (R.01-10-024): (a) Whether SDG&E should be authorized to utilize a full range of available physical and financial tools to manage its energy procurement activities; and (b) Guidance on the exercise of the SDG&E procurement function. It will be incumbent upon SDG&E and any other party seeking to address these issues here to show that they have not been or are not being fully addressed elsewhere.

## **5. Implementation DWR and URG Revenue Requirements Decisions**

D.01-09-059 adopted an interim DWR charge pending the Commission's resolution of issues pertaining to the DWR revenue requirement and the allocation thereof in A.00-11-038, et al. It also established increased retail rates to collect the interim DWR charge employing revenue allocation and rate design principles generally similar to those adopted in D.01-05-064. By D.02-02-052, as modified by D.02-03-003 and D.02-03-062, the Commission adopted a modified DWR charge for SDG&E's customers. The decision further provided that "any overall rate changes for SDG&E's customers will be addressed in a separate order in [this proceeding]." (D.02-02-052, p. 101.)

The ALJ's proposed decision in A.00-11-038, et al. with respect to prospective URG revenue requirements was issued on January 18, 2002. This decision, if approved, would establish cost-of-service URG revenue requirements for utilities including SDG&E. The proposed decision states that "[a]ny rate changes for SDG&E shall be addressed in a separate docket, A.00-10-045 et al." (Proposed Decision re *Opinion Adopting Revenue Requirements for Utility Retained Generation*, Footnote 43, p. 80.)

In the event that the Commission adopts a decision in the URG phase of A.00-11-038 et al. that has the same or a similar procedural requirement as that set forth in the January 18 proposed decision, I intend to issue a subsequent procedural ruling establishing an expedited process for implementing both the revised DWR charge adopted by D.02-02-052, as modified, and the URG decision.



## **6. Updated Schedule**

It is my objective to complete this proceeding expeditiously. The procedural schedule set forth below is hereby adopted and shall govern the consideration and disposition of remaining issues in this except for the implementation of the revised DWR charge and the URG revenue requirement adopted in A.00-11-038, et al, as set forth in Section 5 of this ruling. The Assigned Commissioner and the principal hearing officer may make further adjustments to the schedules as necessary.

To facilitate the orderly processing of this matter, SDG&E shall timely respond to data requests proffered by the Commission's Energy Division as well as those proffered by ORA and by other parties.

### **Updated Schedule**

<b>Event</b>	<b>Dates</b>
SDG&E's updated prepared testimony served	4/26/02
Prepared testimony of other parties served	5/29/02
Rebuttal testimony served	6/14/02
Prehearing conference	6/19/02
Evidentiary hearings	6/24-28/02
Opening briefs	7/24/02
Reply briefs	8/5/02
Proposed decision (PD)	9/13/02
Comments on PD	10/3/02
Reply comments on PD	10/8/02
Final Oral Argument (if requested)	10/11/02
Commission decision	10/17/02

**IT IS RULED** that:

1. The suspension of this proceeding is vacated.
2. The scope and the schedule of this proceeding are as set forth in the foregoing discussion.
3. Dated March 28, 2002, at San Francisco, California.

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/s/ CARL WOOD  
Carl Wood  
Assigned Commissioner

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner's Ruling Vacating Suspension of Procedural Schedule, Updating the Scope, and Revising the Schedule on all parties of record in this proceeding or their attorneys of record.

Dated March 28, 2002, at San Francisco, California.

/s/ TERESITA C. GALLARDO  
Teresita C. Gallardo

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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